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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,882	02/04/2004	Larry L. Lutton	VC-99-026-A	3750
42419	7590	08/10/2005	EXAMINER	
PAULEY PETERSEN & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			ALLEN, ANDRE J	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,882

Applicant(s)

LUTTON ET AL.

Examiner

Andre J. Allen

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8-9-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4,6-10 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al (US 6439061).

Regarding claim 1 Nelson et al teaches a) a simple probe (col. 9 lines 5-10) tube located in an area of low turbulence, high velocity airflow of the HVAC airflow; the simple probe tube connected to a pressure sensor transducer 25; And whereby the signal from the transducer can be used to monitor the airflow (col. 9 line 14)(col. 10 lines 15) of the HVAC application.

Regarding claim 4 Nelson et al teaches the low turbulence, high velocity airflow area is a flow ring 24 surrounding a blower motor.

Regarding claims 6-8 Nelson teaches a differential electronic (inherent) pressure sensor/transducer (abstract).

Regarding claim 9 Nelson et al teaches a second tube 60 connected at a second side of the pressure sensor for a reference pressure.

Regarding claims 10 and 13 Nelson et al teaches the simple probe 25 tube is part of an assembly comprising a clip 38 for attachment of the simple probe tube to an inside surface of the flow ring 24 where the flow ring has the highest velocity.

Regarding claim 12 Nelson et al teaches the HVAC airflow is monitored and controlled from the pressure sensor transducer and in conjunction with other data (col. 3 lines 50-55)(col. 4 lines 1-30).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al (US 6439061) in view of Kettler (US 6079627).

Regarding claims 2-5 and 11 Nelson teaches the basic features of the claimed invention, except the pressure sensor transducer is connected to a variable speed motor controller, a blower motor for monitoring and controlling the HVAC airflow directly from the sensor/transducer. Kettler teaches the pressure sensor transducer is connected to a variable speed

motor controller 20 22, a blower motor 36 for monitoring and controlling the HVAC airflow (col. 3 lines 57-58) directly from the sensor It would have been obvious to a person having ordinary skill in the art of HVAC systems at the time the invention was made to modify the system taught by Nelson et al to include a variable speed motor and a blower motor for monitoring and controlling the HVAC airflow directly from the sensor as taught by Kettler for the purpose of controlling airflow in an HVAC system (col. 3 line 56).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 571-272-2174. The examiner can normally be reached on mon-fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André Allen
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Art Unit 2855



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